Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 95-116
Telephone Number Portability	)	
	)	

REPLY COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. ("JSI") hereby submits these reply comments in response to the invitation of the Federal Communications Commission ("FCC" or "Commission") to comment on the recommendation of the North American Numbering Council ("NANC") for reducing the time interval for intermodal porting and related implementation issues.[1] JSI joins with commenters in this proceeding in urging the Commission to adopt a rural exemption should the Commission decide to adopt NANC's proposal for shortening the intermodal porting interval. JSI also urges the Commission to reject demands that it intervene in the development of a standardized Local Service Request ("LSR") for intermodal porting and instead continue its well-established practice of allowing the industry to resolve issues related to number portability procedures.

I. Introduction

JSI is a consulting firm offering regulatory and financial services to more than two hundred incumbent and competitive local exchange carriers ("LECs") throughout the

[1] *Telephone Number Portability*, CC Docket No. 95-116, *Second Further Notice of Proposed Rulemaking*, FCC 04-217 (rel. Sept. 16, 2004) ("Second FNPRM").

United States. Among its consulting services, JSI provides Service Order Administration ("SOA") management services. Through these services, JSI clients obtain access to Neustar's SOA system, which provides entry into the Number Portability Administration Center ("NPAC") database for the purpose of identifying ported number information. Currently, JSI provides SOA management services for over 125 LECs. Additionally, JSI provides other intra- and inter-modal number portability-related services including assistance in implementation, regulatory compliance and development of tariff rates to ensure sufficient cost recovery.

II. A Rural Exemption Should Be Adopted if the Commission Decides to Shorten the Porting Interval

As cited by the Commission and commenters, NANC's proposal recognizes that shortening the intermodal porting interval would have economic impacts that "may not be justified for rural telephone companies."[2] The record clearly demonstrates that an unduly economically burdensome requirement would be imposed on rural telephone companies if the porting interval were shortened which cannot be justified.

According to several commenters, costs associated with shortening the porting interval are prohibitive for rural LECs. NANC's proposal would require a mechanized interface, the costs of which would be "substantial."[3] For companies using third-party vendors for

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2 Second FNPRM at para. 14. *See, e.g.,* Comments of the Office of Advocacy, U.S. Small Business Administration ("SBA") at 2; Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at 4 (citing the Second FNPRM's Initial Regulatory Flexibility Analysis as stating "any shortening of the intermodal porting interval 'may impose new obligations and costs on carriers'").

3 SBA's Comments at 4 (observing that the costs are exorbitant because "such systems are currently designed to handle a larger volume of requests than small and rural telephone companies require" and citing one rural LEC that estimated the costs of software and hardware to be at least $100,000). *See,* Comments of the National Telecommunications Cooperative Association ("NTCA") at 3 ("The most tangible, direct cost would be the necessary software upgrades to existing systems in order to accommodate

SOA services, it is estimated that the monthly charges for these services would increase.[4] Additional costs include those that would be incurred due to extension of office hours, increased personnel and modification of billing practices, system maintenance operations, inventory tracking systems and management procedures.[5] The increased costs would have a significant impact on all LECs, but would have an even greater impact on small and rural LECs. As demonstrated by the SBA, small and rural telephone companies "do not have the requisite scope to absorb the increase in costs."[6]

These increased costs cannot be justified, especially given that the current porting interval is adequate, and there is little demand for intermodal porting in rural areas. As demonstrated by several commenters, no evidence exists that the current interval has hindered intermodal porting.[7] Further, very few customers of rural telephone companies have requested to "cut the cord" and port their numbers to wireless carriers.[8] Contrary to

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an automated process"); Comments of Frontier at 6 (estimating that its costs would exceed $1.4 million of one-time costs plus more than $450,000 in annual recurring costs to implement NANC's Proposal A2 because it would have to create an Operational Support System); Comments of Cincinnati Bell Telephone Company at 2 (noting that it would have to install a mechanized interface for the exchange of wireless porting requests at an estimated cost of $500,000 to implement NANC's proposal).

[4] *See* SBA Comments at 4; Comments of the Texas Statewide Telephone Cooperative, Inc. ("TSTCI") at 2, n.3 (estimating increased costs of $1,000 - $1,200 per month that third party vendors would charge to small rural carriers if the vendors were required to upgrade their systems to implement a mechanized system)

[5] *See* NTCA's Comments at 3-4; Comments of the United States Telecom Association at 6.

[6] SBA's Comments at 5 (citing studies showing that "small businesses bear a disproportionate share of the federal regulatory burden"). *See* Comments of the Public Service Commission of the State of Nebraska at 1 ("It is undisputed that rural carriers serve a smaller customer base and therefore, the per customer cost associated with any changes in hardware, software, and carrier processes and procedures are higher than carriers serving more densely populated areas").

[7] *See, e.g.* Comments of BellSouth Corporation ("BellSouth") at 2; Comments of Verizon at 2.

[8] *See* Comments of TDS Telecommunications Corp. ("TDS") at 2 (noting that from May through September 2004, "only 175 customers, from among the 700,000 access lines served by TDS Telecom's ILEC subsidiaries, have requested intermodal porting"); Comments of TSTCI at 2, n.2 (reporting that 19 of the 36 member companies have ported 33 lines, "an average of less than two ports per company");

the unsubstantiated claims of some wireless carrier commenters in this proceeding that the low numbers of ports are due to recalcitrance on the part of LECs, the record clearly shows that very few intermodal port requests are being made in rural areas.[9] It has also been JSI's experience that for its over 125 SOA client companies, very few of their rural wireline customers have requested to port to wireless carriers. As of December 10, 2004, of the LECs that use JSI SOA services, over half have not received any requests from wireless carriers to port. Of the carriers that have received requests, only one third have received and processed more than 5 ports. A review of the transactions revealed that most of these ports were associated with numbers used by wireless carriers that have a Type 1 interconnection with the LEC.[10]

Because no justifiable reason exists to impose burdensome costs on small and rural LECs if the Commission decides to adopt NANC's proposal to shorten the intermodal porting interval, an exemption for these carriers is warranted. Failure to grant such an exemption likely would result in State-by-State suspensions of the unduly economically burdensome requirement for those rural LECs under their jurisdiction.[11] JSI urges the Commission to adopt a more efficient and uniform approach by granting a

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Comments of TCA at 3 (citing data from its LNP Service Bureau that from June 2004 through November 16, 2004, TCA assisted Service Bureau clients with 431 porting events and that "not one was intermodal").

9 *See, e.g.,* TDS' Comments at 2; SBA's Comments at 5; NTCA's Comments at 4.

10 Porting of Type 1 numbers generally occur when thousands blocks have been contaminated and cannot be pooled. Because these numbers are usually ported in conjunction with the pooling of non-contaminated thousands blocks, porting of Type 1 numbers cease after the pooling takes place.

11 One state commission has already indicated its desire to grant rural LECs a suspension of any requirement that would mandate implementation of a mechanized process to shorten the porting interval. *See* Comments of the Public Service Commission of Nebraska at 2. As noted by commenters, for those not receiving suspensions, the Commission would need to address the issue of cost recovery for these number portability-related costs. *See, e.g.,* BellSouth's Comments at 7-11.

blanket exemption from the shorter porting interval requirements for all "two percent" LECs.

III. Commission In Involvement is Not Required to Standardize LSRs

In its report NANC observed, "the industry may consider establishing one common LSOG version (a uniform format and exchange of information) and a single mechanized interface . . . ."[12] In its Second FNPRM, the Commission sought comment on this statement in the NANC Report and asked "whether or not the costs of a standardized [Local Service Ordering Guideline ("LSOG")] and mechanized interface would outweigh the benefits, including for small entities."[13] The LSOG includes standard ordering forms in addition to instructions on how to use and complete the forms. The forms are the LSR, end user form and number portability form.

In response, wireless carrier commenters used this as an opportunity to call upon the Commission to require the wireline industry to adopt its version of the LSR. The wireless commenters, however, differed over what should be considered the required fields on such a standard intermodal LSR. According to the wireless industry association and a wireless vendor, three fields must be populated and validated on an LSR: "(1) ported telephone number; (2) account telephone number; and (3) five-digit zip code."[14] Two wireless carriers propose "two or three fields of information: 1) the ten digit telephone number; 2) the porting subscriber's social security number or telephone

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12 *NANC Report and Recommendation on Intermodal Porting Intervals*, Prepared for the NANC by the Intermodal Porting Interval Issue Management Group at 28 (dated May 3, 2004) ("NANC Report") (emphasis added).

13 Second FNPRM at para. 11.

14 Comments of CTIA – The Wireless Association™ ("CTIA") at 2, n.5; Comments of Syniverse Technologies, Inc. at 4.

account number or Tax Identification Number; and 3) if applicable on a secured account, the Personal Identification Number ("PIN") or password."[15] Another wireless carrier proposed "three fields – telephone number (a 10-digit numeric): state (a two-digit alpha); and zip-code (a five-digit numeric)."[16]

Although JSI is not opposed to streamlining the LSR process, it strongly opposes the adoption of such a "wireless LSR" for rural LECs. JSI's SOA clients use all three forms of LSOG version 8. It has been our experience that the SOA clients and other JSI client companies that have used JSI services in implementing number portability are consistent in their determination as to what is considered required fields and have justifiable reasons why such fields are necessary. For instance, two of the required fields on JSI's rural LEC LSRs are the customer name and address. These fields are essential to ensure that the person requesting the port is the person authorized to make the port. JSI knows of at least one instance in which a wireless-to-wireless port occurred which was not authorized by the account holder when these fields were not completed.[17] By requiring verification of the exact name of the account holder, opportunities for such "slamming" are lessened.

Further, JSI believes that industry working groups are more appropriate for dealing with issues related to standardization of LSRs than an FCC rulemaking process. As recognized by NANC, "[c]urrently, each LEC may choose a different LSOG version

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15 Comments of T-Mobile USA, Inc. at 8.; Nextel Communications, Inc. at 4.

16 Comments of Sprint Corporation at 9.

17 JSI understands that in this situation, the wife requested the port but the husband was the authorized user.

based upon their business needs to process customer updates including porting."[18] Many rural LECs do not have mechanized ordering systems.[19] Also, state requirements regarding the type of information that can be collected by LECs vary.[20] Because of the varying company-specific requirements, the use of industry working groups would be a more efficient way to develop a more standardized LSR for intermodal porting than in the context of an FCC rulemaking.

Commission precedent also supports allowing the industry to work through issues that pertain to number portability processes. Throughout its number portability proceeding, the FCC repeatedly referred matters to NANC to address technical and operational issues. In its Second Report and Order, the Commission recognized that wireline carriers had already begun implementing number portability and that "the industry, under the auspices of NANC," would need to make modifications to number portability standards and processes as it "obtains additional information about incorporating CMRS providers into a long-term portability solution . . . ."[21] In a subsequent decision, the Commission emphasized its conviction that the industry "under

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[18] NANC Report at 28. Some LECs provided evidence that changing to a uniform LSOG would be a significant expense, extremely burdensome to the industry and would prevent carriers from knowing each others' business rules. *See* Comments of SBC Communications, Inc. ("SBC") at 5; BellSouth's Comments at 12-13.

[19] According to an industry report, "of the 805 incumbent LEC companies that serve less than 100,000 access lines, 767 (95 percent of all ILECs) serve less than 25,000 access lines. 656 (81 percent) serve less than 10,000 lines, 535 (66 percent) serve less than 5,000 lines and 417 (52 percent) serve less than 3,000 lines. . . . Altogether, 172 ILECs, or 21 percent of all ILECs . . . serve less than 1,000 lines while another 159 ILECs serve between 1,000 and 2,000 lines." *Phone Lines 2004*, Prepared by JSI Capital Advisors, LLC. (2004 *ed*.). Accordingly, many small and rural incumbent LECs do not have enough subscribers to require mechanized ordering systems.

[20] JSI understands that in some states, LECs are not permitted to obtain Social Security numbers. *See* Comments of SBC at 5 ("some states require carriers to accept several older LSOG versions to minimize the burden on small carriers . . . .").

[21] *Telephone Number Portability*, CC Docket No. 95-116, *Second Report and Order*, 12 FCC Rcd 12,333 (1997) ("Second Report and Order").

the auspices of NANC" should address technical and operational issues related to number portability. In its Second Memorandum Opinion and Order on Reconsideration the Commission stated:

> In the Second Report and Order, the Commission found that NANC represents a broad cross-section of the industry, has developed substantial expertise in number portability issues, and provides a valuable forum in which carriers are able to consider, at the national level, possible ways to resolve the issues that arise as number portability is developed within each number portability region. As a result, the Commission charged the NANC with the task of addressing technical and operational issues related to local number portability that may arise in the future.[22]

Even in matters where there has been lack of consensus within the industry over number portability matters, the Commission has looked first to the industry to find solutions. In resolving issues related to the use of E911 during the period of "mixed use" after a wireline number port to a wireless carrier has been initiated, the Commission determined, "[w]hile we recognize these concerns, in our view, the Commission's E911 rules do not prohibit the industry from adopting a 'mixed use' approach."[23] In resolving a dispute between Verizon and AT&T regarding the appropriate ordering process for porting telephone numbers, the Commission ruled that Verizon was not required to change is LSR process to accommodate AT&T's concerns because Verizon used the industry-approved porting procedures. In this case, the Commission found that "[t]he process Verizon uses is consistent with industry guidelines, as established by the [industry's

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[22] *Telephone Number Portability*, CC Docket No. 95-116, *Second Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd 21204 at para. 14 (1998) ("Second Memorandum Opinion and Order").

[23] Letter from John B. Muleta, Chief Wireless Telecommunications Bureau to John T. Scott, III, Verizon Wireless and Michael Altschul, CTIA, CC Docket No. 95-116, DA 03-2190 (rel. July 3, 2003). *See Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability*, WT Docket No. 98-229; CC Docket No. 95-116 *Memorandum Opinion and Order*, 14 FCC Rcd 3092 at para. 33 (1999) ("we continue to believe that the wireless industry, not the Commission, should decide technical issues with respect to the implementation of wireless LNP").

Ordering and Billing Forum ("OBF")]"and that AT&T had failed to refute Verizon's assertion that the costly changes would be necessary to accommodate AT&T's concerns.[24]

Wireless carriers must not be allowed to circumvent this well-established process by bringing issues before FCC that they believe will not be resolved in their favor. As noted by Verizon, an industry wireline-wireless LNP working group has been formed to ensure consistency between certain fields in LSRs and and streamlining validation of LSRs.[25] Given the on-going efforts of this and other industry groups, FCC intervention at this time regarding the development of a standardized LSR format is unnecessary and would waste Commission resources.

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[24] *In re Petition of WorldCom, Inc.*, 17 FCC Rcd 27,039 at para. 566 (Jul. 17, 2002) *recon denied* DA 04-1276 (rel. May 14, 2004). The Commission found, "[i]t is reasonable for parties to adopt practices and standards that emerge from the OBF process." *Id.*

[25] *See* Comments of Verizon at 5.

IV. Conclusion

In recommending shortening of the intermodal porting interval, NANC stressed that adoption of its proposal would have economic impacts that may not be justifiable for small and rural companies. The record in this proceeding provides compelling evidence that the Commission should exempt small and rural LECs if it decides to adopt NANC's proposal. Additionally, no reason exists for the Commission to intervene at this time in considering whether a standardized LSR can be developed for intermodal porting. As the Commission has repeatedly recognized, industry working groups are more appropriate for dealing with these types of procedural number portability issues than an FCC rulemaking process.

Respectfully submitted,

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